

Christian H. Dribusch
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Hearing Date: June 6, 2018
Hearing Time: 9:15 a.m.
Hearing Location: James T. Foley Courthouse
445 Broadway
Albany, NY 12207

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK

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In re:

THE VELLANO CORPORATION

Debtor.

Chapter 7

Case No. 17-11348

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TRUSTEE MOTION TO SELL PROPERTY OF THE BANKRUPTCY ESTATE

TO: The Honorable Robert E. Littlefield Jr.
United States Bankruptcy Court Judge

On June 6, 2018 (“Sale Hearing”) Christian H. Dribusch who is the chapter 7 trustee (the “Trustee”) to the bankruptcy estate of the Debtor proposes to sell the bankruptcy estate’s interest in a 2012 Ford 550 VIN 1FDUF5GY2CEC51212 with mileage of approximately 43,161 (located in Buffalo, New York) and a 2007 International 4300 VIN 1HTMMAAL37H486290 with mileage of approximately 181,836 (located in Latham, New York) (collectively, the “Trucks”).

The Trustee requests an Order authorizing him to sell the property to the highest bidder at the Sale Hearing (the “Motion”).

In support of the Motion, the Trustee states as follows:

JURISDICTION, VENUE AND STATUTORY PREDICATES

1. This Motion is made pursuant to sections 105(a) and 363(b) of title 11 of the United States Code (the “*Bankruptcy Code*”), Rules 2002 and 6004 of the Federal Rules of Bankruptcy Procedure (the “*Bankruptcy Rules*”), and Local Bankruptcy Rules 2002-1(a) and 6004-1(c), for the entry of an Order authorizing the sale.

1. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §1334. Consideration of this Motion is a core proceeding pursuant to 28 U.S.C. §157(b).

2. Venue of this proceeding is proper before the Court pursuant to 28 U.S.C. §1408 and §1409.

FACTS

3. On July 21, 2017 the Debtors filed a voluntary chapter 11 petition. The case converted to chapter 7 on or about January 3, 2018.

4. The bankruptcy estate owns the Trucks. The Ally liens are satisfied.

5. The Trustee has received an offer of \$7,500 for the 2012 Ford 550 and \$5,000 for the 2007 International.

6. The Trustee proposes to auction the Trucks at the Sale Hearing on the following terms:

- (a) All bids above the initial bids shall be in increments of at least \$100.00;
- (b) “AS IS,” “WHERE IS,” sale without any representation or warranty of any type whatsoever, except that the Debtor bankruptcy estate has good and marketable title to the property being offered for sale;
- (c) 15% non-refundable deposit on the successful bid due immediately after the Sale Hearing; and
- (d) Closing to occur within 10 days of the Sale Hearing date.

TRUSTEE'S MOTION TO SELL THE ASSETS

7. The Trustee has a duty to expeditiously liquidate property of the bankruptcy estate in a manner consistent with the interest of the parties in interest.

8. Section 363(b) of the Bankruptcy Code provides, in relevant part, as follows:

(b)(1) The trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate ... (11 U.S.C. §363(b)(1).

9. Moreover, section 105(a) of the Bankruptcy Code provides that bankruptcy courts “may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code].” 11 U.S.C. §105(a).

10. The Trustee submits that a sale of the Trucks represents a sound exercise of the Trustee’s business judgment and should be authorized by the Court.

IMPLEMENTATION OF THE SALE ORDER

11. The Trustee believes that there is no just reason for delay in the implementation of the Sale Order and requests that, notwithstanding Bankruptcy Rule 6004(h), the Sale Order be made effective and enforceable immediately upon entry, as such would be in the interest of the Debtor bankruptcy estate.

WHEREFORE, the Trustee respectfully requests entry an Order granting the relief requested herein and granting such other and further relief as the Court deems just and proper.

Dated: May 9, 2018

By: /s/ Christian H. Dribusch
Christian H. Dribusch
Chapter 7 Trustee
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